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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,620	07/10/2003	Rodney C. Hemminger	ELSE-0817	3352
23377	7590	12/02/2004	EXAMINER	
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE, 46TH FLOOR 1650 MARKET STREET PHILADELPHIA, PA 19103			KARLSEN, ERNEST F	
			ART UNIT	PAPER NUMBER
			2829	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/616,620	Applicant(s) HEMMINGER ET AL.	
	Examiner Ernest F. Karlsen	Art Unit 2829	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 11-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0803</u> . | 6) <input type="checkbox"/> Other: _____  |

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Claim 11-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 0604.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Item 164 (Quantum. RTM...) of the Form PTO-1449 Modified filed August 13, 2003 in view of Johnston '839.

With regard to claims 1, 6 and 10, Item 164 shows a meter, see pages 5-16 and 6-1, wherein LED test pulses are produced which are representative of either watt-hours or var-hours. The pulses are produced on two separate LEDs in parallel, but Item 164 does not show serial output using a single light source. Johnston '839 shows apparatus using an optical port where the apparatus receives commands and transmits signals representative of at least two electrical parameters via a single light source serially and in dependence on the command received. In other words the electrical parameters are multiplexed on a single channel. The term "port" is interpreted broadly in that the number of inputs and outputs can be of any number and the inputs and outputs can be at different

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locations. It would have been obvious to one of ordinary skill in the art at the time of the invention to have substituted the serial readout technique of Johnston '839 for the parallel readout technique of Item 164 because one of ordinary skill in the art would realize that so doing would enable simpler more easily performed readout of information. With regard to claims 4 and 5, page 5-16 relates to delivered and received vars. With regard to claims 7-9, Item 164 selects one of vars and watthours. The "K" only indicates a multiple of one thousand and is the standard in electrical measurement. With regard to claim 9, the optical port of Johnston '839 receives a signal from an external source representative of kilowatt demand or kilowatt hours.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Item 164 in view of Johnston '839 and Hutt et al.

The combination of Item 164 and Johnston '839 shows that claimed except for the multiple types of power including real power, reactive power and apparent power. Hutt et al show an energy meter that measures real power, reactive power and apparent power. It would have been obvious to one of ordinary skill in the art at the time of the invention to have adapted the apparatus

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resulting from the combination of Item 164 and Johnston '839 to measure and respond to real power, reactive power and apparent power as taught by Hutt et al because one skilled in the art would realize that so doing would enable a greater range of power types to be measured. See column 1, line 67 to column 2, line 5 and column 12, line 64 to column 13, line 3 of Hutt et al.

The use of the symbol "Ke" in claims 7 and 8 is objected to because it is not properly defined in the specification.

Any inquiry concerning this communication should be directed to Ernest F. Karlsen at telephone number 571-272-1961.

Ernest F. Karlsen

November 27, 2004

A handwritten signature in black ink, appearing to read "Ernest F. Karlsen", with a stylized, cursive script.

**ERNEST KARLSEN  
PRIMARY EXAMINER**